

HOUSE BILL 1331

D4

11r3015
CF SB 650

By: **Delegate Waldstreicher**

Introduced and read first time: March 7, 2011

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Peace Orders – Surrender of Firearms**

3 FOR the purpose of authorizing a court issuing a temporary peace order to order the
4 respondent to surrender to law enforcement authorities and to refrain from
5 possessing certain firearms for a certain period of time under certain
6 circumstances; requiring a court issuing a final peace order to order the
7 respondent to surrender to law enforcement authorities and to refrain from
8 possessing certain firearms for a certain period of time under certain
9 circumstances; requiring a law enforcement officer to provide certain
10 information to a respondent when a firearm is surrendered and to transport and
11 store the firearm in a certain manner; providing for the retaking of surrendered
12 firearms by the respondent except under certain circumstances; authorizing a
13 respondent to transport a firearm under certain circumstances; establishing a
14 certain penalty for failure to surrender a firearm or possession of a firearm
15 under certain circumstances; and generally relating to peace orders.

16 BY repealing and reenacting, with amendments,
17 Article – Courts and Judicial Proceedings
18 Section 3–1504(a), 3–1505, and 3–1508(a)
19 Annotated Code of Maryland
20 (2006 Replacement Volume and 2010 Supplement)

21 BY adding to
22 Article – Courts and Judicial Proceedings
23 Section 3–1505.1
24 Annotated Code of Maryland
25 (2006 Replacement Volume and 2010 Supplement)

26 BY repealing and reenacting, without amendments,
27 Article – Family Law
28 Section 4–505(a)(1) and (2)(viii), 4–506(f), 4–506.1, and 4–509(a)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2006 Replacement Volume and 2010 Supplement)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
4 MARYLAND, That the Laws of Maryland read as follows:

5 **Article – Courts and Judicial Proceedings**

6 3–1504.

7 (a) (1) If after a hearing on a petition, whether ex parte or otherwise, a
8 judge finds that there are reasonable grounds to believe that the respondent has
9 committed, and is likely to commit in the future, an act specified in § 3–1503(a) of this
10 subtitle against the petitioner, the judge may issue a temporary peace order to protect
11 the petitioner.

12 (2) The temporary peace order may include any or all of the following
13 relief:

14 (i) Order the respondent to refrain from committing or
15 threatening to commit an act specified in § 3–1503(a) of this subtitle against the
16 petitioner;

17 (ii) Order the respondent to refrain from contacting, attempting
18 to contact, or harassing the petitioner;

19 (iii) Order the respondent to refrain from entering the residence
20 of the petitioner; [and]

21 (iv) Order the respondent to remain away from the place of
22 employment, school, or temporary residence of the petitioner; **AND**

23 **(v) ORDER THE RESPONDENT TO SURRENDER TO LAW**
24 **ENFORCEMENT AUTHORITIES ANY FIREARM IN THE RESPONDENT'S**
25 **POSSESSION, AND TO REFRAIN FROM POSSESSION OF ANY FIREARM, FOR THE**
26 **DURATION OF THE TEMPORARY PEACE ORDER IF THE ACT SPECIFIED IN §**
27 **3–1503(A) OF THIS SUBTITLE CONSISTED OF:**

28 **1. THE USE OF A FIREARM BY THE RESPONDENT**
29 **AGAINST THE PETITIONER;**

30 **2. A THREAT BY THE RESPONDENT TO USE A**
31 **FIREARM AGAINST THE PETITIONER;**

32 **3. SERIOUS BODILY HARM TO THE PETITIONER**
33 **CAUSED BY THE RESPONDENT; OR**

1 **4. A THREAT BY THE RESPONDENT TO CAUSE**
2 **SERIOUS BODILY HARM TO THE PETITIONER.**

3 (3) If the judge issues an order under this section, the order shall
4 contain only the relief that is minimally necessary to protect the petitioner.

5 3–1505.

6 (a) A respondent shall have an opportunity to be heard on the question of
7 whether the judge should issue a final peace order.

8 (b) (1) (i) The temporary peace order shall state the date and time of
9 the final peace order hearing.

10 (ii) Unless continued for good cause, the final peace order
11 hearing shall be held no later than 7 days after the temporary peace order is served on
12 the respondent.

13 (2) The temporary peace order shall include notice to the respondent:

14 (i) In at least 10–point bold type, that if the respondent fails to
15 appear at the final peace order hearing, the respondent may be served by first–class
16 mail at the respondent’s last known address with the final peace order and all other
17 notices concerning the final peace order;

18 (ii) Specifying all the possible forms of relief under subsection
19 (d) of this section that the final peace order may contain;

20 (iii) That the final peace order shall be effective for the period
21 stated in the order, not to exceed 6 months; and

22 (iv) In at least 10–point bold type, that the respondent must
23 notify the court in writing of any change of address.

24 (c) (1) If the respondent appears for the final peace order hearing, has
25 been served with an interim peace order or a temporary peace order, or the court
26 otherwise has personal jurisdiction over the respondent, the judge:

27 (i) May proceed with the final peace order hearing; and

28 (ii) If the judge finds by clear and convincing evidence that the
29 respondent has committed, and is likely to commit in the future, an act specified in §
30 3–1503(a) of this subtitle against the petitioner, or if the respondent consents to the
31 entry of a peace order, the court may issue a final peace order to protect the petitioner.

1 (2) A final peace order may be issued only to an individual who has
2 filed a petition under § 3–1503 of this subtitle.

3 (3) In cases where both parties file a petition under § 3–1503 of this
4 subtitle, the judge may issue mutual peace orders if the judge finds by clear and
5 convincing evidence that each party has committed, and is likely to commit in the
6 future, an act specified in § 3–1503(a) of this subtitle against the other party.

7 (d) (1) The final peace order may include any or all of the following relief:

8 (i) Order the respondent to refrain from committing or
9 threatening to commit an act specified in § 3–1503(a) of this subtitle against the
10 petitioner;

11 (ii) Order the respondent to refrain from contacting, attempting
12 to contact, or harassing the petitioner;

13 (iii) Order the respondent to refrain from entering the residence
14 of the petitioner;

15 (iv) Order the respondent to remain away from the place of
16 employment, school, or temporary residence of the petitioner;

17 (v) Direct the respondent or petitioner to participate in
18 professionally supervised counseling or, if the parties are amenable, mediation; and

19 (vi) Order either party to pay filing fees and costs of a
20 proceeding under this subtitle.

21 (2) If the judge issues an order under this section, the order shall
22 contain only the relief that is minimally necessary to protect the petitioner.

23 **(E) THE FINAL PEACE ORDER SHALL ORDER THE RESPONDENT TO**
24 **SURRENDER TO LAW ENFORCEMENT AUTHORITIES ANY FIREARM IN THE**
25 **RESPONDENT’S POSSESSION, AND TO REFRAIN FROM POSSESSION OF ANY**
26 **FIREARM, FOR THE DURATION OF THE PEACE ORDER IF THE ACT SPECIFIED IN §**
27 **3–1503(A) OF THIS SUBTITLE CONSISTED OF:**

28 **(1) THE USE OF A FIREARM BY THE RESPONDENT AGAINST THE**
29 **PETITIONER;**

30 **(2) A THREAT BY THE RESPONDENT TO USE A FIREARM AGAINST**
31 **THE PETITIONER;**

32 **(3) SERIOUS BODILY HARM TO THE PETITIONER CAUSED BY THE**
33 **RESPONDENT; OR**

1 **(4) A THREAT BY THE RESPONDENT TO CAUSE SERIOUS BODILY**
2 **HARM TO THE PETITIONER.**

3 **[(e)] (F)** (1) A copy of the final peace order shall be served on the
4 petitioner, the respondent, the appropriate law enforcement agency, and any other
5 person the court determines is appropriate, in open court or, if the person is not
6 present at the final peace order hearing, by first-class mail to the person's last known
7 address.

8 (2) (i) A copy of the final peace order served on the respondent in
9 accordance with paragraph (1) of this subsection constitutes actual notice to the
10 respondent of the contents of the final peace order.

11 (ii) Service is complete upon mailing.

12 **[(f)] (G)** All relief granted in a final peace order shall be effective for the
13 period stated in the order, not to exceed 6 months.

14 **3-1505.1.**

15 **(A) IF A RESPONDENT SURRENDERS A FIREARM UNDER § 3-1504 OR §**
16 **3-1505 OF THIS SUBTITLE, A LAW ENFORCEMENT OFFICER SHALL:**

17 **(1) PROVIDE TO THE RESPONDENT INFORMATION ON THE**
18 **PROCESS FOR RETAKING POSSESSION OF THE FIREARM; AND**

19 **(2) TRANSPORT AND STORE THE FIREARM IN A PROTECTIVE**
20 **CASE, IF ONE IS AVAILABLE, AND IN A MANNER INTENDED TO PREVENT DAMAGE**
21 **TO THE FIREARM DURING THE TIME THE PEACE ORDER IS IN EFFECT.**

22 **(B) (1) THE RESPONDENT MAY RETAKE POSSESSION OF THE**
23 **FIREARM AT THE EXPIRATION OF A TEMPORARY PEACE ORDER UNLESS:**

24 **(I) THE RESPONDENT IS ORDERED TO SURRENDER THE**
25 **FIREARM IN A FINAL PEACE ORDER ISSUED UNDER § 3-1505 OF THIS SUBTITLE;**
26 **OR**

27 **(II) THE RESPONDENT IS NOT OTHERWISE LEGALLY**
28 **ENTITLED TO OWN OR POSSESS THE FIREARM.**

29 **(2) THE RESPONDENT MAY RETAKE POSSESSION OF THE**
30 **FIREARM AT THE EXPIRATION OF A FINAL PEACE ORDER UNLESS THE**
31 **RESPONDENT IS NOT OTHERWISE LEGALLY ENTITLED TO OWN OR POSSESS THE**
32 **FIREARM.**

1 3. serious bodily harm to a person eligible for relief
2 caused by the respondent; or

3 4. a threat by the respondent to cause serious bodily
4 harm to a person eligible for relief.

5 4–506.

6 (f) The final protective order shall order the respondent to surrender to law
7 enforcement authorities any firearm in the respondent’s possession, and to refrain
8 from possession of any firearm, for the duration of the protective order.

9 4–506.1.

10 (a) If a respondent surrenders a firearm under § 4–505 or § 4–506 of this
11 subtitle, a law enforcement officer shall:

12 (1) provide to the respondent information on the process for retaking
13 possession of the firearm; and

14 (2) transport and store the firearm in a protective case, if one is
15 available, and in a manner intended to prevent damage to the firearm during the time
16 the protective order is in effect.

17 (b) (1) The respondent may retake possession of the firearm at the
18 expiration of a temporary protective order unless:

19 (i) the respondent is ordered to surrender the firearm in a
20 protective order issued under § 4–506 of this subtitle; or

21 (ii) the respondent is not otherwise legally entitled to own or
22 possess the firearm.

23 (2) The respondent may retake possession of the firearm at the
24 expiration of a final protective order unless:

25 (i) the protective order is extended under § 4–507(a)(2) of this
26 subtitle; or

27 (ii) the respondent is not otherwise legally entitled to own or
28 possess the firearm.

29 (c) Notwithstanding any other law, a respondent may transport a firearm if
30 the respondent is carrying a protective order requiring the surrender of the firearm
31 and:

32 (1) the firearm is unloaded;

1 (2) the respondent has notified the law enforcement unit, barracks, or
2 station that the firearm is being transported in accordance with the protective order;
3 and

4 (3) the respondent transports the firearm directly to the law
5 enforcement unit, barracks, or station.

6 4-509.

7 (a) A person who fails to comply with the relief granted in an interim
8 protective order under § 4-504.1(c)(1), (2), (3), (4)(i), (7), or (8) of this subtitle, a
9 temporary protective order under § 4-505(a)(2)(i), (ii), (iii), (iv), (v), or (viii) of this
10 subtitle, or a final protective order under § 4-506(d)(1), (2), (3), (4), or (5), or (e) of this
11 subtitle is guilty of a misdemeanor and on conviction is subject, for each offense, to:

12 (1) for a first offense, a fine not exceeding \$1,000 or imprisonment not
13 exceeding 90 days or both; and

14 (2) for a second or subsequent offense, a fine not exceeding \$2,500 or
15 imprisonment not exceeding 1 year or both.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2011.